COCHIN

LEGISLATIVE COUNCIL PROCEEDINGS.

(OFFICIAL REPORT OF THE FIRST LEGISLATIVE SESSION OF THE FOURTH COCHIN LEGISLATIVE COUNCIL.)

Vol. II—1111.

COCHIN LEGISLATIVE COUNCIL.

Tuesday,

24th March, 1936.

11th Meenam, 1111.

The Council met in the Council Hall, Ernakulam, at Eleven of the Clock with the Hon'ble the President (Sir Shanmukham Chetty, K. C. I. E.) in the Chair.

Messrs. T. C. Iyyukkutty, K. T. Mathew, P. Sankunny Menon, R. Viswanathan Chettiar and Dr. A. R. Menon were absent.

Adjournment Motion
re- the enactment of the Newspaper Regulation.

Mr. T. K. Nayar.—Under S. O. 26 I move that the business of the House be adjourned as a mark of emphatic protest against the action of the Government of His Highness the Maharaja of Cochin in passing the Cochin Newspapers Regulation, XV of 1111, without consulting this House.

Mr. P. Govinda Menon.—I second it.

Mr. President.—I am sorry that the Hon'ble Member who has been in this Council for the past 10 years does not know the rule relating to adjournment motions. "A motion that any sitting or business be adjourned or postponed or that the Council pass to the business next in order in the statement of business may be moved at any time and without previous notice as a distinct question but not so as to interrupt a speech. If the motion is carried, the sitting or business shall be adjourned or postponed accordingly or if the motion carried be

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that the Council pass to the business next in order in the statement of business, the business then under discussion shall be considered to be disposed of." But on that motion you cannot base a definite motion of adjournment.

Mr. E. Ikkanda Warriar.—The motion is for the adjournment of the sitting.

Mr. President.—Then you cannot mention the subject matter.

Mr. T. K. Nayar.—That was the practice followed in this House. Then I may be allowed to move that the sitting of the Council be adjourned.

Mr. P. Govinda Menon.—I second it.

Mr. President.—The Hon'ble Member's motion is that the business of the Council be adjourned under S. O. 26. What has the Law Member to say on that motion?

Mr. Thomas Manjuran.—Under the 1st clause of S. O. 26 any sitting may be adjourned. I do not think that under the provisions contained in our Standing Orders the motion is out of order.

Mr. President.—What has the Hon'ble Member to say about S. O. 20? Suppose the President is of opinion that this motion being of a dilatory character is inadmissible. Will the President be justified in invoking S. O. 20? I will first allow the Hon'ble Members on this side to answer.

Mr. T. K. Nayar.—S. O. 26 is mandatory. I am at perfect liberty to move a motion at any time without interrupting any speech. I do not think that the President has got any discretion in the matter.

Mr. Thomas Manjuran.—It is incorrect to say that the President has no discretion.

Mr. President.—The Hon'ble Member is really making a motion under S. O. 26. Therefore, the motion that the Hon'ble Member has made is neverthless a motion under whatever Standing Order it be. The provision of Standing Order 26 will come into operation the moment that motion is admitted. But it is for somebody to decide whether it is admissible or not. I think S. O. 20 gives a discretion to the President to decide upon the admissibility or otherwise of the motion. What I wanted to know is if under S. O. 20 the Chair thinks that it ought not to be allowed what would be your answer?

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Mr. T. K. Nayar.—S. O. 26 clearly says that when a Member makes a motion and when it is seconded the President has simply to put the motion to a division. "A motion that any sitting or business be adjourned or postponed or that the Council pass to the business next in order in the statement of business may be moved at any time and without previous notice as a distinct question but not so as to interrupt a speech. If the motion is carried, the sitting or business shall be adjourned or postponed accordingly". That is my contention.

Mr. President.—But first of all the motion must be allowed. Under S. O. 26 the Hon'ble Member has got the liberty to make the motion. S. O. 26 vests in every Hon'ble Member the power of making a motion. But every motion, resolution and question cannot be discussed in the House unless it is admitted by the President. The Hon'ble Member cannot find either in the Regulation or in the rules any provision which provides that any question or resolution or motion or bill can be discussed at all in the Council without it being first admitted by the President. Therefore, the various stages through which a motion or resolution has to pass are these: The Member must move the motion under some Standing Order or rule. Then the President has to decide whether the motion is admissible or not. If it is admitted it shall be put to vote.

Mr. P. Govinda Menon.—This motion is different from other motions, questions and resolutions inasmuch as other motions, questions and resolutions are sent from outside the Council and the President has either to admit or reject it. This is like a motion either opposing a resolution or seconding a resolution which a Member is at perfect liberty to make when the House is in session. In this case there is no question of the President allowing or disallowing it.

Mr. T. A. Ramachandra Ayyar.—In this case no notice is necessary.

Mr. P. Govinda Menon.—Just as a Member has got a right to oppose or support a resolution he has got a right when the House is in session to move this motion and the question of admissibility does not arise.

Mr. K. M. Kunhi Moideen.—May I know on what grounds the President decides whether it is admissible or not?

Mr. P. Kumaran Ezhuthassan.—Sub-rule 2 to S. O. 20 only says: "The President may disallow at any time or stage any motion when, in his opinion, it does not comply with the

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Rules or Standing Orders". Here there is no question of non-compliance with any Standing Order or Rule.

Mr. President.—I am not invoking that section at all.

Mr. P. Kumaran Ezhuthassan.—Section 20 has got a proviso. The cases in which the President can disallow a motion are mentioned there. The motion before the House is not one such.

Mr. President.—If that is the interpretation of the Hon'ble Member then there is no need for sub-section (1).

Mr. P. Kumaran Ezhuthassan.—Then what exactly is the basis of sub-section 2 ?

Mr. President.—It is an additional power.

Mr. A. Sankara Menon.—Sub-section 2 relates to a motion allowed by the President.

* **Mr. C. R. Iyyunni.**—With regard to this phrase 'except as otherwise provided for, in the rules' that will perfectly be meaningless if the President may disallow any motion. "The President may disallow at any time or stage any motion when, in his opinion, it does not comply with the Rules or Standing Orders". If it infringes any of the rules or Standing Orders the President has got the right. In that rule there is no phrase 'except as otherwise provided for'. Suppose there are certain Standing Orders or rules which will be infringed if this motion is admitted. Then certainly the President can say "Because it infringes such and such rules or such and such Standing Orders the motion is out of order". Otherwise why should that phrase 'except as otherwise provided for' be there? So that what I say is unless the motion that is brought before the House infringes any of the provisions of the Standing Orders or the rules the President cannot disallow a motion of this type.

Then so far as S. O. 26 is concerned there is absolutely nothing stated as to the admissibility or inadmissibility of the motion. If any reference has been made in that Standing Order they would have said 'subject to such and such rule or Standing Order 20'. That is not stated. Certainly when laws are framed we find that if it is qualified or if it is subject to something it is expressly stated. Here it is an extraordinary right or prerogative vested in a Member. So what I beg to submit is that this is not governed by S. O. 20 at all.

* Speech not corrected by the Hon'ble Member.

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* **Mr. M. Sivarama Menon.**—Mr. President, Sir, with regard to this point of order raised I wish to bring to the notice of the Hon'ble Members of this House that S. O. 19 makes it very clear. 'Provided that the President may, in his discretion, admit at any time any motion'. That extraordinary power is vested in the President in order that the President may exercise his discretion in saying whether a motion has to be admitted or not. S. O. 26 only vests in the Members a statutory right by which they can bring forward such a motion. Whether the motion has come before us or not is in question. "Provided that the President may, in his discretion, admit at any time any motion". Therefore, whether that question ought to be put by the President is a matter which is entirely left to the President's discretion. The rules do not refer to that right. In my humble opinion, the President is at perfect liberty to exercise his discretion whether the motion has to be allowed or not.

If an adjournment motion can be considered to be out of order I do not see any reason why a distinction can be made with regard to such a motion as this. If a right was intended to be vested in the Hon'ble Members then I say the Legislature would have mentioned it in express language. My opinion on this matter, therefore, is that the President is at perfect liberty to exercise his discretion.

Mr. E. Ikkanda Warriar.—I wish to draw your attention to S. O. 25 in deciding this question. "At any time after a motion has been made a Member may move "that the question be now put", and unless it shall appear to the President that such motion is an abuse of the rules of the Council or an infringement of the rights of reasonable debate, the question "that the question be now put" shall be put forthwith and decided without amendment or debate". That is a case where the President has some power to decide whether one is abusing the powers of reasonable discussion. S. O. 26 is mandatory and if the intention was that the President should have a discretion in the matter I think it would have been specifically provided. In the absence of an express provision similar to that contained in S. O 25 I would submit that the President has no discretion in the matter and the whole matter is left to the vote of the Council.

Mr. T. K. Nayar.—Regarding any other motion the President can say whether the motion is to be accepted or not. But according to the ruling just made by the Hon'ble President the Member is entitled to make a motion for adjournment alone.

* Speech not corrected by the Hon'ble Member.

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When that motion is made there is no substance in the motion. For what purpose the motion is made is not indicated. It may be for the convenience of the Members on this side that the request to have the business of the day adjourned for the next day is made. The reasons, they alone know. The President is not in a position to know for what purpose this motion is made. I do not think the President has got the necessary materials before him to say yes or no on this motion. Hence just for the convenience of the Members of the House, if they get a majority the President will adjourn the sitting. This is my view.

Mr. President.— I am glad he has given the finest reason for the existence of S. O. 20. The Hon'ble Member himself has confessed that from the nature of the case a motion under S.O. 26 cannot adduce in support of it any specific reason. It should simply be a motion that the business of the House be adjourned or postponed. It is with a view to safeguard the abuse of the power vested under S. O. 26 that the President is vested with powers under S. O. 20. If the Hon'ble Member's contention is correct, in any Legislative Assembly a majority of Members can from day to day simply get up and make the motion that the business of the House be postponed. Now, if that were to happen, the legislative business and the machinery of the Government would come to a stand-still. The framers of Regulations and rules have provided for such obstructionist tactics. It is deliberately to allow the legislative body to carry on its functions irrespective of a majority that a quorum is provided and Hon'ble Members should understand that in every legislative body the number fixed for a quorum is much below the number necessary for a majority. That is provided to ensure that in spite of the obstructive tactics of the majority the administrative machinery of the Government should be carried on. The President of the Legislature, whether he is the Diwan or whether he is an elected President, has got the sacred duty of seeing that the machinery of Government is not brought to a stand-still and it is to arm the President with a power to prevent such a contingency that S. O. 20 is clearly enunciated.

I will put it to the Hon'ble Member that in this House of 54 the Hon'ble Member has got a majority of 28. It will be open to him with that majority to move at 11 o'clock every day that the business of the House be adjourned and if the President is not to exercise his discretion under S. O. 20 I ask the Hon'ble Member how the machinery of this legislative body is to be carried on. It is, therefore, to prevent that possible contingency that S. O. 20 has been provided. In fact I know of a definite

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case in which on one occasion the Legislative Assembly President refused to accept a motion for adjournment on the ground that in his opinion that motion was of a dilatory character. So that, no amount of explanation or interpretation can take away the simple fact that S. O. 20 vests in the President a power to decide on the admissibility or otherwise of a question and under that S. O. I decide that this motion cannot be allowed.

Mr. T. K. Nayar.— Sir, with due respect, as a protest against the passing of the Cochin Newspapers Regulation, we walk out of the Council.

(Messrs. K. Ayyappan, K. Ashtamoorthi Nambudiripad, A. Eachara Menon, P. Govinda Menon, K. M. Ibrahim, E. Ikkanda Warriar, C. R. Iyyunni, V. K. Kutty, V. K. Krishnankutty, T. K. Nayar, K. M Kunhi Moideen, K. Kunhirama Menon, T. A. Ramachandra Ayyar, P. Raman Menon, and K. S. Panickar then walked out of the Council.)

Questions and Answers.

Quarrying—rates for.

270. മിസ്റ്റർ കെ. എം. കുഞ്ഞുമൊയ്തീൻ.— താഴെ പറയുന്ന ചോദ്യങ്ങൾക്കു ഗവൺമെൻറ സദയം മറുപടി പറയുമോ:—

(എ.) കല്ലുവെട്ടുന്നതിനു ഗവൺമെൻറിൽനിന്നും ഫ്രാവു-വരെ ഏക്രക്കു എത്ര രൂപാ വീതം വസൂൽചെയ്തിരുന്നുവെന്നു പറയുവാൻ ദയവുണ്ടാകുമോ;

(ബി.) ഇപ്പോൾ ഏക്രക്കു എന്തുവീതം പിരിച്ചുവരുന്നുവെന്നു പറയുമോ;

(സി.) ഇപ്പോഴത്തെ നിരക്കു കുറവുചെയ്യുന്നതിനു ഗവൺമെൻറ് ആലോചിക്കുന്നുണ്ടോ?

മിസ്റ്റർ കെ. അച്യുതമേനോൻ.—

നഗരങ്ങളിൽനിന്നും നഗരങ്ങളിൽനിന്നു ഒരു നാഴികയകത്ത് നിന്നു പ്രധാനപ്പെട്ട പബ്ലിക് റോഡുകളുടെ ഇരുഭാഗങ്ങളിൽനിന്നും വെട്ടി എടുക്കുന്നതായാൽ ക.

മറ്റു സ്ഥലങ്ങളിൽ നിന്നു വെട്ടി എടുക്കുന്നതായാൽ ക.

(എ) ചെത്തി പണിചെയ്ത കരിങ്കല്ല് ഫ്രാ ഒ

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